IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6132 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

S A BALAS

Versus

STATE OF GUJARAT

Appearance:

MR ND NANAVATI for Petitioner

MR DP JOSHI, AGP for Respondent No. 1

MR TUSHAR MEHTA for Respondent No. 2

NOTICE SERVED for Respondent No. 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 14/08/2000

ORAL JUDGEMENT

#. Failure of the petitioner before the 2nd Jt. Extra Assistant Judge, Junagadh, in a proceeding under the provisions contained in Gujarat Public Premises (Eviction

of Unauthorized Occupants) Act, 1972, has given a cause to file this petition.

#. The matter was remanded to the competent authority for fixation of rent damages. However, in view of the interim order passed by this Court, the impugned order passed by the 2nd Extra Assistant Judge, Junagadh is stayed. Not only that, but the petitioner has also prayed for a relief to the effect that the respondents be restrained from evicting the petitioner from quarter L/159, situated at Meghaninagar at Junagadh. Thus, the petitioner is enjoying the fruits of the interim relief.

#. At the time of hearing, none has chosen to remain present for the petitioner.

#. In the case of N.K. Parmar v. State of Gujarat, reported in 33(2) GLR, P. 1508, the Division Bench examined the scheme and demand made by persons similarly situated and in view of that decision, I find no purpose in adjourning the matter for non-appearance of the advocate or for dismissing the matter for non-prosecution. In the aforesaid case, exactly on identical grounds, the petition was filed. Paras 1 & 2 of the said judgment read as under.

"In this group of petitions, it is prayed bythe Government employees, the Gujarat State Road Transport Corporation employees and the employees of the Accountant General, Gujarat, that the Government should be directed to sell them the tenements, which are allotted to them as employees for residential purpose during their service tenure. The dispute pertains to "F", "G", "K" and Meghaninagar Housing Colonies (which are situated in the area known as Asarwa Chamanpura) and few tenements constructed by S.T. Corporation at Nadiad, Baroda and other cities.

It is the contention of the petitioners that "F", "G" and Meghaninagar Housing Colonies were constructed by the Housing Board in the year 1959-60 at the price of Rs. 3600/= per tenement; on the bifurcation of the bilingual State of Bombay, the State of Gujarat was formed on 1st May, 1960; for accommodating the Government employees the State ofGujarat took the Colonies "A","B", "C", "D", "E", "F", "G" "H" and "L" from the Gujarat Housing Board. It is the say of the State Government that, to provide accommodation

to the Government servants who were working in the State Government departments and who were transferred to the State of Gujarat, at the aforesaid Colonies were taken over on lease and accommodation was also provided in the Government owned quarters, flats and bungalows. The Government had also allotted certain quarters of "F" & "G" Colonies to the staff of the Gujarat State Road Transport Corporation on certain conditions and the administrative control for residential accommodation of these quarters vested with the State Government. It is also pointed out that by Resolution dated 17th March, 1977 (Annexure "I" to the affidavit-in-reply) the State Government decided to purchase 1154 numbers of tenements from the Gujarat Housing Board situated at various places in Ahmedabad City as under:-

(1) "F" Colony, Shah Alam Roza 524 Nos.
(2) "G" Colony, Rajpur Hirpur 414 Nos.
(3) Asarwa Chamanpura (Meghaninagar Housing Colonies) 216 Nos.

1154 Nos.

The preamble of the said Resolution provides that on formation of the new State of Gujarat on 1st May, 1960, the issue of providing residential accommodation to the Government servants allocated to the new State and posted to work either in Sachivalaya or to the offices of Heads of Departments set up at Ahmedabad cropped up. For this purpose, in addition to requisitioning private houses and undertaking programmes of constructing new quarters on priority basis, 1154 tenements of the Gujarat Housing Board constructed under the Industrial Housing Scheme were also hired for the Government servants. Considering the need of accommodating the Government employees, it was thought proper not to release the said quarters to the Gujarat Housing Board. With regard to "K" Colony, it is an admitted fact that the Government had constructed it and it belongs to the Government."

#. The Court after considering the facts and circumstances of the case, pointed out as under.

"... In any case, rightly or wrongly if some bounty is granted bythe State Government in

favour of those who were residing in "H" and "L" Colonies, it cannot be said that the State Government should be directed to confer the similar bounty to all the employees. If the petitioners were aggrieved by the said order of the State Government granting the tenements of "H" and "L" Colonies in favour of the persons who were residing therein, they ought to have challenged it at the relevant time. The validity of the said resolution cannot be decided in this petition. (In the case of U.K. Acharya v. State [1988 (1)] XXIX (1) GLR 209, this Court has upheld the validity of the resolution of 1975 in the petitions filed by other employees with which we are not concerned in these petitions.) If by the said resolution of 1975, some employees were arbitrarily favoured, then at the most the Court would strike down down the said resolution, but it would hardly mean that the Court can issue direction to the State Government that similar resolution should be passed giving largesse or bounty to the petitioners."

#. Thus, in view of the pronouncement made by the Division Bench in the aforesaid case, this petition is required to be dismissed having no substance. This petition is accordingly dismissed. Rule discharged. Interim relief stands vacated.

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